

RE: LULAC v. Abbott, 3:21-cv-259 (W.D. Tex.): LULAC Plaintiffs' and Texas NAACP's Letter Re: Defendant Abbott's Privilege Log and Defendants' Discovery Objections

Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>

Wed 5/25/2022 7:44 PM

To: Kenneth Parreno <Kparreno@MALDEF.org>; Patrick Sweeten <Patrick.Sweeten@oag.texas.gov>; Will Thompson <Will.Thompson@oag.texas.gov>;

Cc: Nina Perales <nperales@MALDEF.org>; Samantha Serna <sserna@MALDEF.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Pooja Chaudhuri <pchaudhuri@lawyerscommittee.org>; Sofia Fernandez Gold <sfgold@lawyerscommittee.org>; Robert@notzonlaw.com <Robert@notzonlaw.com>; lindsey.cohan@dechert.com <lindsey.cohan@dechert.com>; neil.steiner@dechert.com <neil.steiner@dechert.com>;

📎 1 attachment

OOG supplemental privilege log.pdf;

Good evening counsel,

Attached is a supplemental privilege log that provides additional information regarding the privilege assertions Defendants made for documents withheld in connection with LULAC and NAACP's first set of requests for documents. We provide this supplement without conceding the deficiency of the original privilege log. And as always, to the extent LULAC and NAACP contend that they do not understand the basis of certain privilege assertions, we would be happy to meet and confer to discuss the subject, or to provide additional information.

Defendants have provided supplemental information regarding the file extension, custodian, date of the entry, as well as to identify any attorneys involved with the entry. You will note that for some entries, one or multiple of the fields are not populated (for example, the *author* or *date created* field). That is because the documents provided to Defendants do not have that information. That is, if a document does not list the *author*, that is because the document provided does not list that information in its metadata. We have populated these fields based on all information we possess.

To briefly address your letter of May 16th, Defendants have asserted the deliberative-process and legislative privileges over documents and communications relating to the Governor's constitutional authority to call special sessions of the legislature. As indicated in the privilege log, these include (i) gathering information on the expected release of the Census data, (ii) considering whether and when to call a special session to address redistricting, and related scheduling topics, and (iii) drafting and editing a proclamation calling such a special session. And in many instances, lawyers from the Governor's office gave legal advice on the content of the documents and communications, and the legality of the actions pursued. We believe the circumstances articulated in the log support our privilege assertions.

We appreciate the parties efforts to narrow the disagreements presented by this privilege log, and remain open to discussing any remaining disagreements.

Sincerely, Jack DiSorbo

Jack DiSorbo
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From: Kenneth Parreno <Kparreno@MALDEF.org>

Sent: Monday, May 16, 2022 2:45 PM

To: Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>; Patrick Sweeten <Patrick.Sweeten@oag.texas.gov>; Eric Hudson <Eric.Hudson@oag.texas.gov>; Will Thompson <Will.Thompson@oag.texas.gov>

Cc: Nina Perales <nperales@MALDEF.org>; Samantha Serna <sserna@MALDEF.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Pooja Chaudhuri <pchaudhuri@lawyerscommittee.org>; Sofia Fernandez Gold <sfgold@lawyerscommittee.org>; Robert@notzonlaw.com; lindsey.cohan@dechert.com; neil.steiner@dechert.com

Subject: Re: LULAC v. Abbott, 3:21-cv-259 (W.D. Tex.): LULAC Plaintiffs' and Texas NAACP's Letter Re: Defendant Abbott's Privilege Log and Defendants' Discovery Objections

Hi Jack,

LULAC Plaintiffs and Texas NAACP are okay with receiving a response to our letter by Wednesday, May 25, 2022.

Thank you,
Kenneth

Kenneth Parreno

Staff Attorney

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From: Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>

Sent: Monday, May 16, 2022 1:48 PM

To: Kenneth Parreno; Patrick Sweeten; Eric Hudson; Will Thompson

Cc: Nina Perales; Samantha Serna; Ezra Rosenberg; Pooja Chaudhuri; Sofia Fernandez Gold; Robert@notzonlaw.com; lindsey.cohan@dechert.com; neil.steiner@dechert.com

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Hi Kenneth,

Thank you for your email, and the attached letter. We appreciate your identifying the specific privilege assertions to which LULAC and NAACP is objecting, and the opportunity to supplement. As I said on the call, I'm hopeful we'll be able to resolve a good portion of the disagreements here informally.

Would LULAC and NAACP be amenable to receiving a supplement by next Wednesday, May 25th? We have five responsive pleadings and a privilege log due on the 18th, a reply brief due on the 19th, and interrogatory responses due on the 20th. I would be able to dedicate more time to supplementing this privilege log if I could turn to it after those deadlines.

Best, Jack

Jack DiSorbo

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From: Kenneth Parreno <Kparreno@MALDEF.org>
Sent: Monday, May 16, 2022 12:48 PM
To: Patrick Sweeten <Patrick.Sweeten@oag.texas.gov>; Eric Hudson <Eric.Hudson@oag.texas.gov>; Will Thompson <Will.Thompson@oag.texas.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>
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Counsel:

As discussed during our May 12, 2022 meet and confer, please see the attached letter following up on our concerns regarding Defendant Abbott's privilege log, which was served jointly on LULAC Plaintiffs and Texas NAACP on May 4, 2022. The attached also reiterates a few other concerns raised in LULAC Plaintiffs' April 26, 2022 meet and confer letter.

We request a response by May 20, 2022.

Thank you,

Kenneth

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